

COMMONWEALTH OF MASSACHUSETTS

DEPARTMENT OF TELECOMMUNICATIONS AND ENERGY

Investigation by the Department of Telecommunications and Energy on its own Motion into the Appropriate Pricing, based upon Total Element Long-Run Incremental Costs, for Unbundled Network Elements and Combinations of Unbundled Network Elements, and the Appropriate Avoided Cost Discount for Verizon New England, Inc. d/b/a Verizon Massachusetts' Resale Services in the Commonwealth of Massachusetts

D.T.E. 01-20

**AT&T'S OPPOSITION TO VERIZON'S MOTION FOR THE ADMISSION OF  
SPECIFIC EXHIBITS INTO EVIDENCE**

AT&T objects to Verizon's motion to admit the following individual exhibits into evidence, for the reasons stated below: VZ-10; VZ-25; VZ-32; VZ-33; VZ-35; VZ-48; VZ-50; and VZ-ATT 1-70.

**Ex. VZ-10: Puerto Rico Telephone Company (PRTC) Report dated May 20, 1996  
(Marked 1/8/02)**

This PRTC Report has no relevance to the current proceeding. Verizon attempted to use this document during the hearings to impeach the testimony of Richard Lee. However, Mr. Lee testified that he had no personal involvement in the creation of this document and that the depreciation lives contained therein were not recommended by Mr. Lee's company. Tr. 326, 1/8/02 (Lee). The only involvement of Mr. Lee's company with this Report was in providing technical support to aid in the creation of the document. *Id.* Mr. Lee's company did not choose the lives used in the Report. *Id.* Rather, PRTC told Mr. Lee's company which lives to use. Tr. 828, 1/8/02 (Lee). Because the

depreciation lives that PRTC believes are appropriate for its own use have no relevance to the determination of the appropriate lives for Massachusetts, and cannot be used to impeach Mr. Lee, this document should be excluded.

**Ex. VZ-25: Printout of Slide used at 1998 GR-303 Symposium entitled “GR-303 System-Deployment Issues, CLEC Perspective,” dated July 29, 1998**  
**(Marked 1/18/02)**

This document appears to be a reproduction of a PowerPoint presentation used at a July 1998 symposium. Specifically, Verizon’s counsel asked AT&T witness Richard Walsh whether this outdated source shows that “issues still need to be resolved before GR-303 can be fully available and working.” Tr. 818, 1/18/02 (Ronis). Mr. Walsh did not agree, but instead testified that in the intervening four years any such issues may well have been resolved. Tr. 819. (Indeed, Mr. Donovan confirmed this, both through his own testimony and by reference to Telcordia’s October 2000 “Notes on the Network.”)

Given the rapid evolution of telecommunications technology, the attempt by Verizon to use a four year-old document to gauge the feasibility of present day technological options is patently absurd. Verizon laid no foundation for admission of this document, as they presented no witness to testify that any specific statement in this July 1998 exhibit is true today. Furthermore, Verizon has completely failed to authenticate the authorship of this proposed exhibit. At no time did Verizon verify that this document had actually been presented at a GR-303 Symposium. Nor did Verizon ever confirm who had authored the document.

In sum, the proposed exhibit is irrelevant, is not supported by a proper evidentiary foundation, has not been authenticated, and should not be admitted into evidence.

**Exs. VZ-32 and VZ-33: Verizon-Pennsylvania Prefiled Collocation Power Testimony (VZ-33) and Pennsylvania quotations**  
(Marked 1/24/02)

These exhibits should not be admitted into evidence for the same reasons that Verizon was not permitted to have their collocation power witness testify about them and was not permitted to use them to cross-examine AT&T's collocation witness. Verizon attempts to use these exhibits to add substantially to their prefiled testimony regarding collocation issues. The Hearing Officer properly ruled that Verizon could not augment its affirmative case for the first time during the hearings in this docket by bringing in a ream of new information that it had filed in Pennsylvania. *See* Tr. 1013-1015. Nor was Verizon was permitted to ask questions of Mr. Turner regarding these exhibits, because the Hearing Officer properly determined that they were not related to the evidence presented in this case. *See* Tr. 1450-1452, 1/24/02. After Verizon's counsel was admonished to "[s]tick to what Mr. Turner has knowledge of that is related to this case," Tr. 1452, Verizon did not attempt to ask another question regarding the contents of Exs. VZ-32 or VZ-33. In sum, Verizon presented no testimony from its own witnesses or on cross-examination of Mr. Turner to authenticate and lay a foundation for the admission of these two exhibits. They should therefore be excluded from the evidence.

**Ex. VZ-35: Amended Settlement Agreement Governing Collocation Rates, Terms and Conditions**  
(Marked 1/24/02)

Verizon claims that it is necessary to admit a Verizon South settlement agreement into evidence so that Verizon can respond to a reference to a Nevada settlement in Steven

Turner's July 18, 2001 Rebuttal Testimony. Tr. 1484-1485, 1/24/02 (Ronis). Verizon's introduction of this new piece of evidence is inappropriate. Verizon had the opportunity to respond to Mr. Turner's rebuttal testimony and submit this Verizon South settlement agreement in the December surrebuttal round of testimony. Verizon failed to do so. Instead, Verizon sought to introduce this new evidence at the hearing stage of the proceeding and for no appropriate purpose. It is not being used for impeachment. If Verizon wanted to cross-examine Mr. Turner on his use of the Nevada settlement, it could do that. Verizon however cannot upon cross-examination introduce as evidence other settlements in other jurisdictions simply because Mr. Turner relied upon a Nevada settlement in his July testimony. Furthermore, Verizon chose to make no attempt to have Mr. Turner or any other witness authenticate the document, or explain how its contents may be relevant to issues raised in this proceeding. *See* Tr. 1486-1488. It should therefore be excluded from the evidentiary record.

**Ex. VZ-48: Surrebuttal Testimony of Steve Turner in Virginia dated 9/21/01**  
**(Marked 1/29/02)**

Verizon inappropriately attempted to introduce Mr. Turner's Virginia testimony through another AT&T witness, Catherine Pitts. Prior testimony by Mr. Turner in another proceeding should not be admitted as evidence in this proceeding in the form of a cross-examination question to Ms. Pitts. Mr. Turner was available for questioning by Verizon three days prior to the hearing testimony of Ms. Pitts. Verizon failed to ask Mr. Turner about his Virginia testimony upon cross-examination of Mr. Turner and therefore this exhibit should not be admitted into evidence.

Furthermore, at the hearings Verizon only asked Ms. Pitts to discuss and respond to lines 9-13 on page 6 of the proposed exhibit. *See* Tr. 2025-2026, 1/29/02. Thus, even if the Department were to permit this small portion of Ex. VZ-48 to come into evidence, it should exclude the remainder of the exhibit. No witness has ever testified in this proceeding regarding whether the remainder is accurate.

(The Department should also note that Ex. VZ-48 should not be designated as proprietary. *See* Tr. 2032.)

**Exs. VZ-50 and VZ-ATT 1-70: AT&T Discovery Response re installation “of AT&T’s most recent digital switch”**  
(Marked 1/29/02)

The only testimony elicited by Verizon regarding this document shows that it is not relevant and therefore should not be admitted. Ms. Pitts testified that this document provided no information regarding the proper engineering, furnishing, and installation (“EF&I”) factor for local switches in this case, in part because the document concerns a stripped-down tandem switch, and because it appears to show total installation costs but not show total equipment costs. Tr. 2039-2042. Verizon did not present any testimony tending to show that the document is relevant. Verizon has therefore not laid even a minimal foundation, and the document should not be admitted into evidence.

**Conclusion.**

AT&T respectfully urges the Department to deny Verizon’s motion for the admission into evidence of the exhibits discussed above.

Respectfully submitted,

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